

STATE OF CALIFORNIA

The Resources Agency

Department of Water Resources

Division of Safety of Dams



STATUTES AND REGULATIONS

PERTAINING TO

SUPERVISION OF

DAMS AND RESERVOIRS

FOREWARD

Since August 14, 1929, the State of California has supervised dams to prevent failure, to safeguard life, and to protect property. The legislation was a result of the failure of St. Francis Dam in March of 1928. Legislation enacted in 1965 revised the Statutes to include off-stream storage reservoirs as a result of the failure of Baldwin Hills Reservoir in December 1963.

Dams and reservoirs are defined in the California Water Code Sections 6002, 6003, and 6004. Certain exemptions are included in Sections 6004 and 6025. All dams under these definitions are subject to State supervision unless they are owned and operated by the United States. A careful reading of all the California Water Code sections and the California Code of Regulations sections included herein is strongly recommended for those who are regulated by these provisions. The schedule of fees is periodically adjusted in accordance with Section 6307 of the Water Code. The current fee structure is listed on the Division website under "Fees."

This document contains Parts 1 and 2 of Division 3, Dams and Reservoirs, of the California Water Code (Statutes), Chapter 1 of Division 2, Title 23 Waters, of the California Code of Regulations (Regulations adopted by the Department of Water Resources), and an outline of Current Practices of the Department in Supervision of Dams and Reservoirs.

NOTICE

This compendium of laws governing dams and reservoirs has been compiled by the Department of Water Resources, Division of Safety of Dams, for convenient reference only and is not represented to be the official version of the statutes or the regulations. Notes, text, and history of repealed sections are not included in this reprint.

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CALIFORNIA WATER CODE
Division 3. Dams and Reservoirs

DIVISION 3. DAMS AND RESERVOIRS

PART 1. SUPERVISION OF DAMS AND RESERVOIRS

Chapter 1. Definitions

6000. Unless the context otherwise requires, the definitions in this chapter govern the construction of this part.

6002. "Dam" means any artificial barrier, together with appurtenant works, which does or may impound or divert water, and which either (a) is or will be 25 feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or from the lowest elevation of the outside limit of the barrier, as determined by the department, if it is not across a stream channel or watercourse, to the maximum possible water storage elevation or (b) has or will have an impounding capacity of 50 acre-feet or more.

6003. Any such barrier which is or will be not in excess of 6 feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of 15 acre-feet, regardless of height, shall not be considered a dam.

6004. a) No obstruction in a canal used to raise or lower water therein or divert water therefrom, no levee, including but not limited to a levee on the bed of a natural lake the primary purpose of which levee is to control floodwaters, no railroad fill or structure, and no road or highway fill or structure, no circular tank constructed of steel or concrete, or both, no tank elevated above the ground, and no barrier which is not across a stream channel, watercourse, or natural drainage area and which has the principal purpose of impounding water for agricultural use shall be considered a dam.

b) No obstruction in the channel of a stream or watercourse which is 15 feet or less in height from the lowest elevation of the obstruction and which has the single purpose of spreading water within the bed of the stream or watercourse upstream from the obstruction for percolation underground shall be considered a dam.

c) The levee of an island adjacent to tidal waters in the Sacramento-San Joaquin Delta, as defined in Section 12220, even when used to impound water, shall not be considered a dam and the impoundment shall not be considered a reservoir if the maximum possible water storage elevation of the impounded water does not

exceed four feet above mean sea level, as established by the United States Geological Survey 1929 datum.

d) No noncircular tank, constructed of steel or concrete, or both, that is constructed in a county of the third class by a public agency, under the supervision of a civil engineer registered in the state, that does not exceed 75 acre-feet in capacity or 30 feet in height, and no barrier that is not across a stream channel, watercourse, or natural drainage area and that has the principal use as a sewage sludge drying facility shall be considered a dam.

6004.5. "Reservoir" means any reservoir which contains or will contain the water impounded by a dam.

6005. "Owner" includes any of the following who own, control, operate, maintain, manage, or propose to construct a dam or reservoir:

- (a) The State and its departments, institutions, agencies, and political subdivisions.
- (b) Every municipal or quasi-municipal corporation.
- (c) Every public utility.
- (d) Every district.
- (e) Every person.
- (f) The duly authorized agents, lessees, or trustees of any of the foregoing.
- (g) Receivers or trustees appointed by any court for any of the foregoing.

"Owner" does not include the United States.

6006. "Alterations", "repairs", or either of them, mean only such alterations or repairs as may affect the safety of the dam or reservoir.

6007. "Enlargement" means any change in or addition to an existing dam or reservoir, which raises or may raise the water storage elevation of the water impounded by the dam or reservoir.

6008. Water storage elevation means that elevation of water surface which could be obtained by the existing dam or reservoir, as previously operated, were there no outflow and were the reservoir full of water.

Chapter 2. General Provisions

6025. It is the intent of the Legislature by this part to provide for the regulation and supervision of dams and reservoirs exclusively by the State.

6025.5 a) Notwithstanding any other provision, subject to subdivision (b), the requirements for state regulation and supervision of safety of dams, as contained in this division, shall not be applicable to waste water treatment and storage ponds constructed as a part of a waste water control facility.

b) This section applies to those ponds specified in subdivision (a) only after the governing body of the city, county, district, or other agency which operates the waste water control facility adopts a resolution which (1) finds that the ponds have been constructed and operated to standards adequate to protect life and property, and (2) provides that the city, county, district, or other agency shall supervise and regulate the design, construction, operation, enlargement, replacement, and removal of the ponds after the effective date of the resolution.

c) This section applies only to ponds specified in subdivision (a) which (1) have a maximum height of 15 feet or less and a maximum storage capacity of 1,500 acre-feet or less, (2) have been designed by, and constructed under the supervision of, a registered civil engineer, and (3) are not across a stream channel or watercourse.

6025.6 a) An owner of a structure defined as a dam pursuant to Section 6002, but excluded from that definition pursuant to subdivision (d) of Section 6004 or otherwise exempted from the requirements of this chapter pursuant to Section 6025.5, shall comply with the requirements of Section 8589.5 of the Government Code and shall employ a civil engineer who is registered in the state to supervise the structure for the protection of life and property for the full operating life of the structure.

b) (1) The civil engineer supervising a dam pursuant to subdivision (a) shall take into consideration, in determining whether or not a dam constitutes, or would constitute, a danger to life or property, the possibility that the dam might be endangered by seepage, earth movement, or other conditions that exist, or might occur, in any area in the vicinity of the dam.

(2) If the civil engineer determines that a dam under his or her supervision constitutes, or would constitute, a danger to life

or property, the civil engineer shall notify the owner of the dam and recommend appropriate action.

c) The owner shall submit to the department the name, business address, and telephone number of each supervising civil engineer.

d) The department shall submit the information provided pursuant to subdivision (c) to the Office of Emergency Services on or before January 1, 1995, and on or before each January 1 thereafter. Any change in the information shall be submitted to the department on or before July 1 of each year.

6026. No city or county has authority, by ordinance enacted by the legislative body thereof or adopted by the people under the initiative power, or otherwise, to regulate, supervise, or provide for the regulation or supervision of any dams or reservoirs in this state, or the construction, maintenance, or operation thereof, nor to limit the size of any dam or reservoir or the amount of water which may be stored therein. This part shall not prevent a city or county from adopting ordinances regulating, supervising, or providing for the regulation or supervision of dams and reservoirs that (a) are not within the state's jurisdiction, or (b) are not subject to regulation by another public agency or body.

6027. Whenever supervision of safety of design or construction of a proposed or existing dam or reservoir is exercised by the United States or any of its agencies pursuant to a jurisdiction superior to that of the state, and the requirements made under authority of such jurisdiction are so contradictory with requirements made by the department under this part that a compliance cannot be made which will meet both federal and state requirements, then the state requirements shall be modified by the department sufficiently to make possible compliance with both federal and state requirements.

6028. No action shall be brought against the state or the department or its agents or employees for the recovery of damages caused by the partial or total failure of any dam or reservoir or through the operation of any dam or reservoir upon the ground that such defendant is liable by virtue of any of the following:

- (a) The approval of the dam or reservoir.
- (b) The issuance or enforcement of orders relative to maintenance or operation of the dam or reservoir.
- (c) Control and regulation of the dam or reservoir.
- (d) Measures taken to protect against failure during an emergency.

6029. Nothing in this part shall be construed to relieve an owner or operator of a dam or reservoir of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam or reservoir.

6030. The findings and orders of the department and the certificate of approval of any dam or reservoir issued by the department are final and conclusive and binding upon all state agencies, regulatory or otherwise, as to the safety of design, construction, maintenance, and operation of any dam or reservoir.

6031. Nothing in this part shall be construed to deprive any owner of such recourse to the courts as he may be entitled to under the laws of this State.

Chapter 3. Administrative Provisions

6052. The department shall employ such clerical, engineering, and other assistants as are necessary for carrying on the work of dam and reservoir supervision in accordance with this part.

6053. The department may employ consultants.

6054. When the safety and technical considerations pertaining to a certificate of approval, dam, reservoir, or plans and specifications require it, or when requested in writing to do so by the owner, the department shall appoint a consulting board of two or more consultants to report to the department on the safety features involved.

6055. The cost and expense of a consulting board if appointed on the request of an owner shall be paid by the owner.

6056. The department shall retain a board of three consultants who shall make an independent report to the director upon the issuance, modification, or renewal of any certificate of approval for any dam owned by the department.

Chapter 4. Powers of the Department

Article 1. Powers in General

6075. The department, under the police power of the state, shall supervise the construction, enlargement, alteration, repair, maintenance, operation, and removal of dams and reservoirs for the protection of life and property as provided in this part.

6076. All dams and reservoirs in the state are under the jurisdiction of the department.

6077. It is unlawful to construct, enlarge, repair, alter, remove, maintain, or operate any dam or reservoir except upon approval of the department as provided in this part.

6078. The department shall adopt and revise from time to time such rules and regulations and issue such general orders as may be necessary for carrying out, but not inconsistent with, the provisions of this part.

6079. In carrying out the provisions of this part the department may cooperate with the United States or any of its agencies.

6080. In making any investigations or inspections required or authorized by this part the department or its representatives may enter upon private property as may be necessary.

6081. In determining whether or not a dam or reservoir or proposed dam or reservoir constitutes or would constitute a danger to life or property, the department shall take into consideration the possibility that the dam or reservoir might be endangered by seepage, earth movement, or other conditions which exist or which might occur in any area in the vicinity of the dam or reservoir. Whenever the department deems that any such condition endangers a dam or reservoir, it shall order the owner to take such action as the department determines to be necessary to remove the resultant danger to life and property.

Article 2. Maintenance and Operation

6100. Supervision over the maintenance and operation of dams and reservoirs insofar as necessary to safeguard life and property from injury by reason of the failure thereof is vested in the department.

6101. The department may require owners to keep records of, and to report on, maintenance, operation, staffing, and engineering and geologic investigations and shall issue such rules and regulations and orders as necessary to secure maintenance and operation and to require staffing and engineering and geologic investigations which will safeguard life and property. In addition, the owner of a dam or reservoir or his agent shall fully and promptly advise the department of any sudden or unprecedented flood or unusual or alarming circumstance or occurrence affecting the dam or reservoir.

6102. The department, from time to time, shall make inspections of dams and reservoirs at state expense for the purpose of determining their safety but shall require owners to perform at their expense such work as necessary to disclose information sufficient to enable the department to determine conditions of dams and reservoirs in regard to their safety and to perform at their expense other work necessary to secure maintenance and operation which will safeguard life and property.

Article 3. Emergency Work

6110. The department shall immediately employ any remedial means necessary to protect life and property if either:

- (a) The condition of any dam or reservoir is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of an order relative to maintenance or operation.
- (b) Passing or imminent floods threaten the safety of any dam or reservoir.

6111. In applying the remedial means provided for in this article, the department may in emergency do any of the following:

- (a) Lower the water level by releasing water from the reservoir.
- (b) Completely empty the reservoir.
- (c) Take such other steps as may be essential to safeguard life and property.

6112. The department shall continue in full charge and control of such dam or reservoir, or both, and its appurtenances until they are rendered safe or the emergency occasioning the action has ceased.

6113. The cost and expenses of the remedial means provided in this article, including cost of any work done to render a dam or reservoir of its appurtenances safe, shall be recoverable by the state from the owner by action brought by the department in the superior court of the county wherein the dam or reservoir or any part thereof is situated.

Article 4. Investigations and Studies

6120. For the purpose of enabling it to make decisions as compatible with economy and public safety as possible the department

shall make or cause to be made such investigations and shall gather or cause to be gathered such data as may be needed for a proper review and study of the various features of the design and construction of dams, reservoirs, and appurtenances.

6121. The department shall also make or cause to be made such watershed investigations and studies as may facilitate its decisions.

Article 5. Action and Procedure To Restrain Violations

6150. The department may commence an action or proceeding under this article, either by mandamus or injunction, for the purpose of stopping or preventing violations or threatened violations.

6151. An action or proceeding under this article may be commenced whenever any owner or any person acting as a director, officer, agent, or employee of any owner, or any contractor or agent or employee of such contractor is:

- (a) Failing or omitting or about to fail or omit to do anything required of him by this part or by any approval, order, rule, regulation, or requirement of the department under the authority of this part; or
- (b) Doing or permitting anything or about to do or permit anything to be done in violation of or contrary to this part or any approval, order, rule, regulation, or requirement of the department under this part.

6152. Any action or proceeding under this article shall be commenced in the superior court in and for the county in which (a) the cause or some part thereof arose, (b) the owner or person complained of has its principal place of business or (c) the person complained of resides.

6153. Any action or proceeding under this article shall be brought by petition in the superior court, alleging the violation or threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction.

6154. The court shall specify a time, not exceeding 20 days after the service of the copy of the petition, within which the owner or person complained of shall answer the petition, and in the meantime the owner or person may be restrained.

6155. In case of default in answer or after answer the court shall immediately inquire into the facts and circumstances of the case.

6156. The court may join such parties as it deems necessary or proper in order to make its judgment, order, or writ effective.

6157. The final judgment in such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief.

Chapter 5. Applications

Article 1. New Dams and Reservoirs or Enlargements of Dams and Reservoirs

6200. Construction of any new dam or reservoir or the enlargement of any dam or reservoir shall not be commenced until the owner has applied for and obtained from the department written approval of plans and specifications.

6201. A separate application for each dam or reservoir shall be filed with the department upon forms to be provided by it, except that only one application need be filed for a dam and the reservoir which will contain the water impounded by the dam.

6202. The application shall give the following information:

- (a) The name and address of the owner.
- (b) The location, type, size, and height of the proposed dam or reservoir and appurtenant works.
- (c) The storage capacity of the reservoir.
- (d) Such other pertinent information as the department requires.
- (e) As accurately as may be readily obtained, the area of the drainage basin, rainfall and streamflow records and floodflow records and estimates.

6203. The department may also require the following:

- (a) Data concerning subsoil and foundation conditions and the materials entering into construction of the dam or reservoir.
- (b) Investigations of, and reports on, subsurface conditions, involving such matters as exploratory pits, trenches and adits, drilling, coring, geophysical surveys, tests to determine leakage rates, and physical tests to measure in place the properties and behavior of foundation materials at the dam or reservoir site.
- (c) Investigations of, and reports on, the geology of the dam or reservoir site and its vicinity, possible geologic hazards, availability and quality of construction materials, and other pertinent features.
- (d) Such other appropriate information as may be necessary in a given instance.

6204. In instances wherein the physical conditions involved and the size of the dam or reservoir are such as to render the above requirements as to drainage areas, rainfall, streamflow, floodflow, and drilling or prospecting of site unnecessary, the department may waive the requirements.

6205. The application shall set forth the purpose for which the impounded or diverted water is to be used.

6206. The application shall be accompanied by maps and plans and specifications of such character and size and setting forth such pertinent details and dimensions as the department requires.

The maps and plans and specifications shall be a part of the application.

Article 2. Repairs, Alterations or Removals

6225. Before commencing the repair, alteration, or removal of a dam or reservoir, including the alteration or removal of a dam or reservoir so that it no longer constitutes a dam or reservoir as defined in this part, the owner shall secure the written approval of the department, except as provided in this article.

6226. The application shall give such pertinent information or data concerning the dam or reservoir, or both, as may be required by the department and such information as to other matters appropriate to a thorough consideration of the safety of such a change as may be required by the department.

6227. The application shall state the proposed time of commencement and of completion of construction.

6228. The application shall give the name and address of applicant, shall adequately detail, with appropriate references to the existing dam or reservoir, the changes which it is proposed to effect, and shall be accompanied by maps and plans and specifications which shall be a part of the application and which shall be of such character and size and set forth such pertinent details and dimensions as the department may require. The department may waive any of the requirements of this section if found by it unnecessary.

6229. In case of an emergency where repairs are necessary to safeguard life and property, repairs may be started immediately, but the department shall be notified at once of proposed repairs and of work under way.

6230. The proposed repairs and work shall be made to conform to such orders as the department issues.

Article 3. Dams Constructed Prior to August 14, 1929

6250. Unless application for approval of the dam has heretofore been made, every owner of a dam completed prior to August 14, 1929 shall, immediately after the effective date of this part, file an application for the approval of such dam.

6251. A separate application shall be made for each dam and shall be filed with the department upon forms to be supplied by it and shall supply such appropriate information concerning the dam as the department requires.

6252. The department shall give notice to file to owners who have failed to do so as required by this article, and a failure to file within 30 days after such notice shall be punishable as provided in this part.

6253. The notice provided for in this article may be given by registered mail and a return receipt signed by the owner shall constitute prima facie evidence of service.

Article 4. Approval of Applications

6260. Upon receipt of any application other than an application provided for in Article 3 of this chapter the department shall give its consideration thereto and shall approve or disapprove the same within the time provided in this article.

6261. A defective application made in a bona fide attempt to conform to the law and rules and regulations of the department shall not be rejected but notice of defect shall be sent to the applicant by ordinary and registered mail.

6262. If within 30 days of the date of mailing the notice the applicant does not file an amended and perfected application, the application shall be rejected and canceled unless for good cause shown the department allows the applicant further time.

6263. No application shall be approved in less than 10 days from its receipt but all applications shall be approved or disapproved as soon as practicable after the receipt of all data and information found necessary by the department.

6264. Approvals may be granted under terms, conditions, and limitations necessary to safeguard life and property.

6265. Actual construction shall be commenced within one year after date of approval, otherwise the approval becomes void.

6266. The department may, upon written application and for good cause shown, extend the time for commencing construction.

6267. Notice shall be given to the department at least 10 days before construction is to be commenced and such other notices shall be given to the department as it may require.

Chapter 6. Fees

6300. (a) The application for a new dam or reservoir or enlargement shall set forth the estimated cost, as defined in this article, of the dam or reservoir or enlargement and shall be accompanied by a filing fee based upon the estimated cost and according to the following schedule:

- (1) For the first three hundred thousand dollars (\$300,000), a fee of 3 percent of the estimated cost.

- (2) For the next seven hundred thousand dollars (\$700,000), a fee of 2 percent.
 - (3) For the next one million dollars (\$1,000,000) a fee of 1 ½ percent.
 - (4) For the next one million dollars (\$1,000,000), a fee of 1 ¼ percent.
 - (5) For the next two million dollars (\$2,000,000), a fee of 1 percent.
 - (6) For the next two million dollars (\$2,000,000), a fee of three-fourths of 1 percent.
 - (7) For all costs in excess of seven million dollars (\$7,000,000), a fee of one-half of 1 percent.
- (b) In no case, however, shall the minimum fee be less than three hundred dollars (\$300).

6301. One filing fee only shall be collected for an enlargement to be effected by flashboards, sandbags, earthen levees, gates, or other works, devices, or obstructions which are, from time to time, to be removed and replaced or opened and shut and thereby operated so as to vary the surface elevation of the impounded water.

6302. For the purposes of this part, the estimated cost of the dam or reservoir or enlargement involved shall include the following:

- (a) The cost of all labor and materials entering into the construction of the dam and appurtenant works or reservoir.
- (b) The cost of preliminary investigations and surveys.
- (c) The cost of the construction plant properly chargeable to the cost of the dam or reservoir.
- (d) Any and all other items entering directly into the cost of the dam or reservoir.

6303. The costs of right-of-way, detached powerhouses, electrical generating machinery, and roads and railroads affording access to the dam or reservoir shall not be included among the items used in the determination of cost.

6304. An application shall not be considered by the department until the filing fee is received.

6305. In the event the actual cost exceeds the estimated cost by more than 15 percent, a further fee shall be required by the department before final approval and shall be 115 percent of the amount by which the original fee is less than it would have been had the cost it was based upon been the same as the actual cost. No further fee shall be required, however if such fee is to be computed at less than twenty dollars (\$20).

6306. Applications for dams found by the department to have been less than 90 percent constructed on August 14, 1929, shall be accompanied by fees as much less than provided for dams commenced after that date as the percentage of construction found by the department to have been completed on that date.

6307. (a) (1) The department shall adopt, by regulation, a schedule of fees to cover the department's costs in carrying out the supervision of dam safety.

(2) The revenue generated by the fees imposed under this section shall be adjusted periodically for cost-of-living increases. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the director shall adjust the fees to compensate for the overcollection or undercollection of revenue. The department shall provide a schedule of fees to the Legislature and to every dam owner that has a permit or has applied for a permit, when any adjustment is made to the fees under this section.

(b) (1) An annual fee shall be paid on or before January 31, 2004, July 1, 2004, and on or before July 1 of each succeeding year, based upon a fixed rate and height of the dam, including all enlargements thereto, substantially completed by or in operation on June 30, 2003, and on June 30 of each succeeding year. The fees collected on December 31, 2003, will be credited toward the fees due January 31, 2004. The annual fee shall be four hundred dollars (\$400) per dam, plus one hundred ten dollars (\$110) per foot of height. This fee shall be periodically adjusted, as described in subdivision (a).

(2) A penalty plus interest, as set forth in Section 6428 of the Water Code, shall be imposed for fees received after July 1 in any year, except that for the year 2003, the penalty plus interest shall be imposed for any fees received after January 31, 2004.

(c) For the purposes of this section, "height of the dam" means the vertical distance, to the nearest foot, from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or from the lowest elevation of the outside limit of the barrier, as determined by the department, if it is not across a stream channel or watercourse, to the maximum possible water storage elevation.

(d) Notwithstanding subdivision (b), the department shall limit the total annual fee per dam to not more than seventy-five (\$75) if both of the following apply:

(1) The dam has a storage capacity of not more than 100 acre-feet.

(2) The governing body of a private school or the governing board of a public school certifies that the dam is used as a subject of study by its students.

(e)(1) Notwithstanding subdivision (b), the department shall limit the total annual fee for dams or reservoirs located on farms or ranch properties to one hundred fifty dollars (\$150) per dam, and sixteen dollars (\$16) per foot of height.

(2) For purposes of this subdivision, "farm" has the same meaning as defined in Section 52262 of the Food and Agricultural Code.

(f)(1) Privately owned dams with less than 100 acre-feet of storage capacity shall be assessed an annual fee in accordance with paragraph (1) of subdivision (e).

(2) As used in this subdivision, "privately owned" does not include dams owned by municipalities, water districts or companies, irrigation districts, private, investor owned or publicly owned utilities, or public agencies.

6308. All fees, penalties, interest, fines, or charges collected by the department under this division shall be deposited in the Dam Safety Fund, which is hereby established in the State Treasury. The money in that fund shall be available to the department, upon appropriation by the Legislature, for the administration of the dam safety program.

6309. The fees provided for in this chapter shall be required of any "owner", as defined in Section 6005.

Chapter 7. Inspection and Approval

Article 1. New or Enlarged Dams and Reservoir

6350. Immediately upon completion of a new dam or reservoir or enlargement of a dam or reservoir, the owner shall give a notice of completion to the department and as soon thereafter as possible shall file with the department supplementary drawings or descriptive matter showing or describing the dam or reservoir as actually constructed, including the following:

- (a) A record of all grout holes and grouting.
- (b) A record of permanent location points and bench marks.
- (c) A record of tests of concrete or other material used in the construction of the dam or reservoir.
- (d) Any other items which may be of permanent value and have a bearing on the safety and permanency of the dam or reservoir.

6351. In connection with the enlargement of a dam or reservoir, the supplementary drawings and descriptive matter need apply only to the new work.

6352. As soon as possible after giving notice of completion, the owner shall file an affidavit with the department stating the actual cost of the dam or reservoir in such detail as the department requires to determine whether a further fee is due. In the event the owner of a new or enlarged dam or reservoir, because of loss of records, recent change of ownership, or other causes beyond his control, is unable to report the actual cost of construction or enlargement, he shall file an affidavit to this effect, stating the reasons therefore, within 30 days after receiving a written request therefore from the department. The department shall then make its own appraisal of the cost of construction or enlargement and determine what further fee, if any, is required. Upon making a determination that a further fee is required, the department shall notify the owner by certified mail of the amount of such fee within 15 days and shall notify the owner that he may appear within 60 days thereafter before an authorized representative of the department to protest the amount of the fee, in whole or in part, determined by the department to be required, and the sufficiency of the appraisal upon which such determination was based.

6354. As soon as practicable the completed dam or reservoir shall be inspected by the department.

6355. A certificate of approval shall be issued upon a finding that the dam or reservoir is safe to impound water within the limitations prescribed in the certificate. Upon written request by an owner for a certificate of approval, the department shall issue the certificate if it finds that the dam or reservoir is safe to impound water within the limitations prescribed in the certificate. Pending issuance of a certificate of approval by the department, the owner of the dam or reservoir shall not, through action or inaction, cause the dam or reservoir to impound water.

Article 1.5. Certificates of Approval

6357. Each certificate of approval issued by the department under this part may contain such terms and conditions as the department may prescribe.

6357.1 The department may revoke any certificate of approval whenever it determines that the dam or reservoir constitutes a danger to life and property. Whenever it deems such action necessary to safeguard life and property, the department may also amend the terms and conditions of any such certificate by issuing a new certificate containing the revised terms and conditions.

6357.2 The owner of a dam or reservoir for which a certificate of approval has been issued shall not, through action or inaction, cause the dam or reservoir to impound water after the certificate terminates unless a new certificate is issued for the dam or reservoir. A new certificate shall be issued upon a finding by the department that the dam or reservoir is safe to impound water within the limits prescribed in the certificate.

6357.3 With respect to each certificate of approval or written consent for use of a dam which has been issued by the department or a predecessor of the department and which is in effect prior to the effective date of this article, the department shall, within one year from such effective date, issue a new certificate of approval, which shall supersede the previous certificate or written consent for use, or shall revoke the existing certificate or written consent for use if it finds that the dam or reservoir is not safe to impound water.

6357.4 Before any certificate of approval is revoked by the department, the department shall hold a hearing. Written notice of the time and place of the hearing shall be mailed, at least 20 days prior to the date set for the hearing, to the holder of the certificate. Any interested persons may appear at the hearing and

present their views and objections to the proposed action. Any petition for a writ of mandate to inquire into the validity of action of the department revoking a certificate of approval shall be commenced within 30 days after service of notice of the revocation on the holder of the certificate.

Article 2. Repaired or Altered Dams and Reservoirs

6360. Immediately upon completion of the repair or alteration of any dam or reservoir, the owner shall give notice of completion to the department and as soon thereafter as possible shall file with it supplementary drawings or descriptive matter showing or describing the dam or reservoir as actually repaired or altered together with such maps, data, records, and information pertaining to the dam or reservoir as repaired or altered as the department requires.

6362. As soon as practicable the dam or reservoir as repaired or altered shall be inspected by the department.

6363. A certificate of approval shall be issued upon a finding that the dam or reservoir is safe to impound water within the limitations prescribed in the certificate. Pending issuance of a new certificate of approval, the owner of the dam or reservoir shall not, through action or inaction, cause the dam or reservoir to impound water beyond the limitations prescribed in the existing certificate.

6364. The certificate of approval shall supersede any previous certificate of approval issued for the dam or reservoir so repaired or altered.

Article 3. Removal of Dams and Reservoirs

6370. Upon completion of the removal of a dam or reservoir such evidence as to the manner in which the work was performed and as to the conditions obtaining after the removal as the department requires shall be filed with the department.

6371. This evidence shall show that a sufficient portion of the dam has been removed to permit the safe passage of floods down the watercourse across which the dam was located.

6372. Before final approval of the removal of a dam or reservoir is issued, the department shall inspect the work and determine that all danger to life and property has been eliminated.

Article 4. Dams Completed Prior to August 14, 1929

6380. The department shall make inspections at State expense of all dams in the State completed prior to August 14, 1929.

6381. The department shall require owners to perform at their expense such work or tests as necessary to disclose information sufficient to enable the department to determine whether to issue certificates of approval or to issue orders directing further work at the owners' expense necessary to safeguard life and property.

6382. If, upon inspection or upon completion to the satisfaction of the department of all work that may be ordered, the department finds that the dam is safe to the full extent for which use is or will be made, a certificate of approval shall be issued.

Article 5. Complaints as to Unsafe Conditions

6390. Upon receipt of a written complaint alleging that the person or property of the complainant is endangered by the construction, maintenance, or operation of any dam or reservoir the department shall cause an inspection to be made unless the data, records, and inspection reports on file with it are found adequate to enable a determination whether or not the complaint is meritorious.

6391. If the complainant insists upon an inspection and deposits with the department a sum estimated by it to be sufficient to cover costs of an inspection, the department shall cause an inspection to be made despite its finding as to the sufficiency of its records to determine the alleged danger.

6392. If it is found that an unsafe condition exists, the department shall take such action as is necessary to render or cause the condition to be rendered safe and any money deposited to secure an inspection shall be returned.

6393. If, after an inspection is made on account of a complaint, the complaint is found by the department to have been without merit, any money deposited therefore shall be payable into the State Treasury.

Article 6. Inspection During Progress of Work

6400. During the construction, enlargement, repair, alteration, or removal of any dam or reservoir the department shall make continuous or periodical inspections at state expense for the purpose

of securing conformity with the approved plans and specifications but shall require the owner to perform at his expense such work or tests as necessary to disclose information sufficient to enable the department to determine that conformity with the approved plans and specifications is being secured.

6401. If, after any inspections, investigations, or examinations, or at any time as the work progresses, or at any time prior to issuance of a certificate of approval it is found by the department that amendments, modifications, or changes are necessary to insure safety, the department may order the owner to revise the plans and specifications.

6402. If conditions are revealed which will not permit the construction of a safe dam or reservoir the approval may be revoked.

6403. In the event that conditions imposed may be waived or made less burdensome without sacrificing a proper margin of safety, the department may authorize an owner to revise the plans and specifications accordingly.

6404. If at any time during construction, enlargement, repair, or alterations of any dam or reservoir the department finds that the work is not being done in accordance with the provisions of the approval and the approved plans and specifications or in accordance with the approval and revised plans and specifications, it shall give a written notice and order by registered mail or by personal service to the owner.

6405. The notice and order shall state the particulars in which the approval and approved plans and specifications or the approval and approved plans and specifications as revised are not being or have not been complied with shall order the immediate compliance with the approval and approved plans and specifications or with the approval and approved revised plans and specifications as the case may be.

6406. The department may order that no further work be done until such compliance has been effected and approved by the department.

6407. A failure to comply with the approval and approved plans and specifications as originally approved or as revised shall render the approval subject to revocation by the department, if compliance is not made in accordance therewith after notice and order from the department as provided in this article.

Chapter 8. Offenses and Punishment

6425. Every person who violates any of the provisions of this part or of any approval, order, rule, regulation, or requirement of the department is guilty of a misdemeanor and punishable by a fine of not more than two thousand dollars (\$2,000) or by imprisonment in the county jail not exceeding six months, or both. In the event of a continuing violation each day that the violation continues constitutes a separate and distinct offense.

6426. Any person who willfully obstructs, hinders, or prevents the department or its agents or employees from performing the duties imposed by this part or who willfully resists the exercise of the control and supervision conferred by this part upon the department or its agents or employees is guilty of a misdemeanor and punishable as provided in this article.

6427. Any owner or any person acting as a director, officer, agent, or employee of an owner, or any contractor or agent or employee of a contractor who engages in the construction, enlargement, repair, alteration, maintenance, or removal of any dam or reservoir, who knowingly does work or permits work to be executed on the dam or reservoir without an approval or in violation of or contrary to any approval as provided for in this part, or any inspector, agent, or employee of the department who has knowledge of such work being done and who fails to immediately notify the department thereof is guilty of a misdemeanor and punishable as provided in this article.

6428. Any owner who fails to pay any annual fee or any part of any annual fee required to be paid pursuant to Section 6307 within the time required shall pay a penalty of 10 percent of the annual fee or part of the annual fee, plus interest at the rate of one-half of 1 percent per month, or fraction thereof, from the date on which the annual fee or the part of the annual fee became due and payable to the state until the date of payment.

Chapter 9. Dams Under Construction Prior to August 14, 1929

6450. Any dam which the department finds was not 90 percent constructed on August 14, 1929 shall be subject to the same provisions as a dam commenced after that date.

6451. Construction work on such a dam may proceed, if an application for approval thereof is filed, until an order from the department is received approving the dam or specifying how its construction must be made or altered to render it safe. After

receipt of an order directing the construction of such a dam, work thereafter must be in accordance with the order.

6452. Dams found to be 90 percent or more constructed on August 14, 1929, shall be subject to the same supervision as dams which were completed prior to that date.

Chapter 10. Dams and Reservoirs Under
State Supervision Through 1965
Revisions of Part 1

Article 1. Dams and Reservoirs
Completed Before 1965 Revisions

6455. Every owner of a dam or reservoir that falls within the definition of a dam or reservoir in this part by virtue of the amendment of Section 6002 or the addition of Section 6004.5 at the 1965 Regular Session of the Legislature and that was completed prior to September 17, 1965, shall immediately file an application with the department for the approval of such dam or reservoir; provided that this Chapter 10 shall not apply to any reservoir which contains the water impounded by a dam for which a certificate of approval is in effect on September 17, 1965.

6456. A separate application shall be made for each dam or reservoir and shall be filed with the department upon forms to be supplied by it and shall include or be accompanied by such appropriate information concerning the dam or reservoir as the department requires.

6457. The department shall give notice to file an application to owners of such dams or reservoirs who have failed to do so as required by this article, and a failure to file within 30 days after such notice shall be punishable as provided in this part.

6458. The notice provided for in this article may be given by registered or certified mail and a return receipt signed by the owner shall constitute prima facie evidence of service.

6459. The department shall make inspections of such dams or reservoirs at state expense.

6460. The department shall require owners of such dams or reservoirs to perform at their expense such work or tests as necessary to disclose information sufficient to enable the department to determine whether to issue certificates of approval or to issue orders directing further work at the owner's expense necessary to safeguard life and property. For this purpose, the department may

require an owner to lower the water level of, or to empty, the reservoir.

6461. If, upon inspection or upon completion to the satisfaction of the department of all work that may be ordered, the department finds that the dam or reservoir is safe to impound water, a certificate of approval shall be issued. The owner of the dam or reservoir shall not, through action or inaction, cause the dam or reservoir to impound water following receipt by the owner of a written notice from the department that a certificate will not be issued because the dam or reservoir will not safely impound water. Before such notice is given by the department, the department shall hold a hearing. Written notice of the time and place of the hearing shall be mailed, at least 20 days prior to the date set for the hearing, to the owner of the dam or reservoir. Any interested persons may appear at the hearing and present their views and objections to the proposed action. Any petition for a writ of mandate to inquire into the validity of the action of the department shall be commenced within 30 days after receipt by the owner of a written notice from the department that a certificate of approval will not be issued.

Article 2. Dams and Reservoirs Under Construction Before 1965 Revisions

6465. Any dam or reservoir that falls within the definition of a dam or reservoir in this part by virtue of the amendment of Section 6002 or the addition of Section 6004.5 at the 1965 Regular Session of the Legislature and which the department finds was under construction and not 90 percent constructed on September 17, 1965, shall, except as provided in Section 6466, be subject to the same provisions in this part as a dam or reservoir commenced after that date. Every owner of such a dam or reservoir shall file an application with the department for the department's written approval of the plans and specifications of the dam or reservoir. Where an application for approval of the plans and specifications for a dam is pending before the department on September 17, 1965, such application shall be deemed to also constitute an application for approval of the plans and specifications of the reservoir which will contain the water impounded by the dam.

6466. Construction work on such a dam or reservoir may proceed, provided an application for approval of the plans and specifications therefore is filed, until a certificate of approval is received by the owner from the department approving the dam or reservoir or an order is received by the owner from the department specifying how the construction must be performed to render the dam or reservoir safe. After receipt of an order specifying how construction of a dam or

reservoir must be performed, work thereafter must be in accordance with the order.

6467. Such dams or reservoirs as are 90 percent or more constructed on September 17, 1965, shall be subject to the same supervision as dams or reservoirs which were completed prior thereto.

Article 3. Fees for Dams or Reservoirs Under Construction Before 1965 Revisions

6470. The owners of completed dams or reservoirs and dams or reservoirs that are 90 percent or more constructed that are made subject to the provisions of this part by the amendment of Section 6002 or the addition of Section 6004.5 at the 1965 Regular Session of the Legislature shall not be required to pay a fee in relation to applications filed with the department for approval of their dams or reservoirs. Applications for the approval of dams or reservoirs that are made subject to this part by said amendment or addition that are found by the department to have been less than 90 percent constructed on September 17, 1965, shall be accompanied by fees as much less than provided for dams or reservoirs commenced after that date as the percentage of construction found by the department to have been completed on that date.

PART 2. FISHWAYS OVER DAMS

6500. Whenever an application for approval of plans and specifications for a new dam, or for the enlargement of any dam, in any stream in this State, is filed pursuant to Part 1 of this division, a copy of the application shall be filed with the Fish and Game Commission as required by the Fish and Game Code.

6501. The provisions for the installation of fishways over or around dams and for the protection and preservation of fish in streams obstructed by dams are contained in Chapter 3 (commencing with Section 5900), Part 1, Division 6 of the Fish and Game Code.

CALIFORNIA CODE OF REGULATIONS

Title 23. Waters

Division 2. Department of Water Resources

Chapter 1. Dams and Reservoirs

Article 1. General Provisions

301. Definitions.

As used in this subchapter, the terms “dam”, “reservoir”, “owner”, “alteration”, enlargement”, and “water storage elevation” shall have the meanings given in Sections 6002 and 6004.5 through 6008 of the Water Code.

NOTE: Authority cited: Section 6078, Water Code.

Reference: Sections 6002-6008, Water Code.

302. Purpose and Effect of Regulations.

The regulations in this subchapter are not intended to limit the authority of the department to act under the police power of the state to the extent authorized by law, when necessary to protect life and property from a dam or reservoir which constitutes, or which may constitute a danger to life and property, and they shall not be interpreted as depriving the department of such authority.

NOTE: Authority cited: Section 6078, Water Code.

Reference: Sections 6075, 6081, and 6110, Water Code.

303. Evidence of Water Rights.

- (a) The department will not issue a written approval to commence construction or enlargement of a dam or reservoir until the applicant or owner demonstrates evidence of adequate water rights in accordance with the requirements of this section.
- (b) The applicant or owner shall provide the department with either:
 - (1) A copy of an entitlement to the use of water issued by the State Water Resources Control Board pursuant to Division 2, Part 2 (commencing with Section 1200) of the Water Code; or
 - (2) If the right to divert or use water does not depend on an entitlement identified in subsection (1) above, a statement of the legal basis of the right.
- (c) The applicant or owner shall also provide the department with either:

- (1) Evidence that a statement of water diversion and use has been filed with the State Water Resources Control Board pursuant to Division 3, Part 1, Chapter 5 (commencing with Section 5100) of the Water Code, or
 - (2) A statement either establishing that a statement of water diversion and use is not legally required, or showing good cause for not filing one.
- (d) The department shall obtain a written statement from the staff of the State Water Resources Control Board stating whether the water right is adequate for the proposed dam and reservoir.
- (e) If a right to divert or use water is based upon a claim of riparian rights, or rights to appropriate water established prior to 1914, and such claim is disputed by the State Water Resources Control Board, the department shall not withhold approval to commence construction solely upon the basis of such a dispute, provided that it is satisfied with the evidence of a water right provided pursuant to subsection (b) above.
- (f) In the event that the State Water Resources Control Board has initiated proceedings to determine whether to authorize use of water, and no decision has been issued, written approval to commence construction or enlargement shall not be withheld pursuant to this section after the 120th day following either the date that the matter is submitted to the Board for decision after hearing or, if no hearing is held, the date on which the protest period closes.

NOTE: Authority cited: Section 6078, Water Code.

Reference: Sections 1052, 6075, 6202(d), 6205, and 6264, Water Code.

304. Civil Engineering Plans and Specifications.

Plans and specifications which are submitted to the department shall be prepared by, or under the direction of, a civil engineer who is registered pursuant to California law and authenticated by him as provided in the Business and Professions Code, or be prepared by such other person as may be permitted under the provisions of said code to prepare such plans and specifications, in which case satisfactory evidence of such other person's right to

so act shall be submitted to the department when the plans and specifications are submitted.

NOTE: Authority cited: Section 6078, Water Code. Reference: Section 6206 Water Code; and Sections 6371, 6374-6375, Business and Professions Code.

305. Civil Engineering Supervision of Construction.

The work of construction, enlargement, repair, alteration or removal of a dam or reservoir shall be under the responsible charge of a civil engineer who is registered pursuant to California law or of such other person as may be permitted under the provisions of the Business and Professions Code to assume responsible charge of such work.

NOTE: Authority cited: Section 6078, Water Code. Reference: Section 6206, Water Code; Sections 6731, 6374-6375, Business and Professions Code.

Article 2. Applications for Construction, Enlargement, Repair, Alteration, Removal of Dams or Reservoirs

310. Applications for Construction or Enlargement.

(a) This section shall apply to applications for the department's approval of plans and specifications for the construction or enlargement of dams and reservoirs.

(b) Applications for construction or enlargement of a dam and reservoir shall be made on printed forms provided by the department. The department shall also provide written instructions for completing the application.

(c) The amount of information required will depend on factors such as the size of the proposed dam and reservoir, potential hazards, hydrology of the watershed, complexity of the site and proximity to active faults.

(d) Plans, maps, specifications and other information required for an application shall be provided in sufficient clarity and detail to be readily interpreted and studied, and to permit an adequate evaluation of the safety of the proposed work.

(e) The department may require the filing of any information, in addition to that specified in this section which, in its opinion, it considers necessary to determine the safety of the dam and reservoir.

(f) In addition to the information required by the Water Code Sections 6201-6206, and subsections (b)-(e), an application shall also include the following:

(1) Evidence of water rights, as required by Section 303.

(2) Information necessary to enable the department to comply with the requirements of the California Environmental Quality Act (Public Resources Code Sections 21000-21174). This information shall be either:

(a) A copy of the environmental impact report (EIR) or negative declaration prepared by a lead agency, or evidence that a lead agency is preparing or will prepare environmental documentation, or

(b) Data and information necessary for the department to act as a lead agency to prepare environmental documentation, where it is required by law to do so.

(3) Where the department acts as a responsible agency, the lead agency's EIR or negative declaration must be submitted to the State Clearinghouse.

(4) The fee as required by Water Code Section 6300, as made specific by Section 314 of this subchapter.

NOTE: Authority cited: Section 6078, Water Code. Reference: Sections 6200-6206, Water Code; and Sections 21002.1(d) and 21083, Public Resources Code.

311. Criteria for Determining Completeness.

(a) Applications will be considered complete when the department has received the completed, signed application form, the information and fee required in Water Code Sections 6201 and 6206 and Section 310(d)-(f), and the fee required by Sections 6300-6302 of the Water Code.

(b) The department on its own motion may waive any information required for a complete application, including but not limited to the requirements of Section 303 where it determines that it has sufficient information to commence and complete a review within applicable time limits, and that all requirements for issuance of an approval will be met within such time limits.

(c) The requirements published by the department pursuant to Section 310 shall set forth the procedures that the department will follow to review an application.

(d) Failure to comply with a request for information pursuant to such procedures within a reasonable time and in a reasonably responsive manner shall be cause for the department to disapprove the application.

NOTE: Authority cited: Section 6078, Water Code. Reference: Section 65941, Government Code.

312. Standard Terms

(a) The following are standard terms and conditions included in any approval of a dam safety application:

(1) Construction work shall be started within one year from date of approval.

(2) No foundations or abutments shall be covered by the material of the dam until the Department has been given an opportunity to inspect and approve the same.

(b) General Safety Requirement. In addition to the above terms and conditions, the law requires that a dam shall at all times be designed, constructed, operated and maintained so that it shall not or would not constitute a danger to life or property, and the Department may, at any time, exercise any discretion with which it is vested, or take any action necessary to prevent such danger.

NOTE: Authority cited: Section 6078, Water Code. Reference: Sections 6075, 6260-6267, Water Code.

313. Automatic Approval of Applications.

Applications approved in accordance with Government Code Section 65956 shall contain the terms and conditions set forth in Section 311. Such approvals may be revoked or modified at any time and under any conditions which would apply to any other approval granted under Division 3, Part 1 of the Water Code.

NOTE: Authority cited: Section 6078, Water Code. Reference: Section 65956, Government Code; and Sections 6260-6267, Water Code.

314. Filing Fee.

(a) Amount of Fee. The estimated cost of the dam and reservoir or enlargement as specified in Section 6302 of the Water Code shall include engineering, geologic, surveying, construction supervision, and administrative costs.

NOTE: Authority cited: Section 21082, Public Resources Code; Section 6078, Water Code. Reference Section: 21089 Public Resources Code; Sections 6301-6305, Water Code.

Article 3. Annual Fee.

315. Annual Fee.

(a) Determination of Amount. The department shall determine the amount of the fee in accordance with Section 6307 of the Water Code. Each owner shall be informed of the amount of the fee by April 30 of each year.

(b) Penalty for Delinquent Payment of Annual Fee. An owner who fails to pay any part of any annual fee on or before July 1, as required by Section 6307 of the Water Code, shall be penalized in accordance with Section 6428 of the Water Code.

NOTE: Authority cited: Section 6078, Water Code. Reference: Section 161, Water Code; and Sections 6307 and 6428, Water Code.

316. Inoperative Dams.

A dam will not be considered to be substantially completed or in operation for annual fee purposes, where the department determined that it has been rendered inoperative on other than a temporary basis. In making its determination the department will consider the following circumstances, among others, with respect to the dam:

(a) Alteration of the outlet facilities to assure maximum possible uncontrolled water release through the outlet works.

(b) Absence of water impounding capability under reasonably foreseeable conditions, taking into account the size of the drainage area.

(c) Absence of benefit from the dam and reservoir to the owner or others.

The Department may determine that a dam is no longer inoperative when investigation reveals that conditions which rendered the dam inoperative on other than a temporary basis have changed. In this event the dam will be considered substantially completed or in operation on the date such determination is made, and the annual fee shall be charged on a pro rata basis.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Section 6307, Water Code.

Article 4. Small Dams Review Board

320. Small Dams Review Board.

In the Department there shall be a Small Dams Review Board consisting of a chairperson who shall be the Division Chief, Division of Design and Construction; a qualified engineer or geologist appointed by the Division Chief, Division of Safety of Dams; and, for each review, a consulting engineer who would be agreed upon by the Department and the dam owner.

NOTE: Authority cited: Section 6078, Water Code. Reference: Section 6054, Water Code.

321. Scope of Review

(a) The Board shall be convened upon the request of any owner of a small dam or proposed small dam to review any decision or order of the department respecting any technical standard, study requested, engineering requirement or other technical matter required by the department where the owner disputes the basis for such requirement, the need for such requirement, or the facts found by the department.

(b) No review shall be undertaken if, in the opinion of the department, there exists an immediate hazard to life or property. This subsection shall not be construed to bar a Small Dams Review Board proceeding after, in the judgment of the department, an immediate hazard to life and property no longer exists.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Section 6054, Water Code.

322. Small Dam Defined.

"Small Dam" means any dam less than 25 feet in height with a reservoir storage less than 2,000 acre-feet.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Sections 6054 and 6055, Water Code.

323. Time to Request Board Review; Filing Fee.

(a) The owner must request board review within 60 days of the disputed departmental action. The request must be made to the Division Chief, Division of Safety of Dams, and must state the facts and circum-stances on which such owner bases his grievance.

(b) The owner shall remit, at the time the grievance is filed the amount of \$250 to partially defray the cost and expense of the Board.

(c) If the Board meets for more than one day, the department shall bill the owner for its additional costs incurred for subsequent days.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Sections 6054 and 6055, Water Code.

324. Time and Conduct of Review.

The Board shall review the owner's grievance promptly after such grievance is filed. The review shall be conducted in an informal manner. The Board shall consider all relevant information and data presented by the owner, his engineer, or any other person.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Section 6054, Water Code.

325. Findings of the Board.

Based upon information and data secured during the review, the Board shall refer its findings to the Division Chief, Division of Safety of Dams, regarding the matter which led to the grievance. Decisions made by the Division Chief shall be final.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Section 6054, Water Code.

Article 5. Dams Owned by the Department
of Water Resources

330. Consulting Board.

Pursuant to Section 6056 of the Water Code, the department shall retain a board of three consultants to report to the Director on the safety of dams owned by the department.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Section 6056, Water Code.

331. Scope of Review.

The consulting board shall make independent findings with regard to conditions which may affect the safety of the dam and reservoir as specified in Section 6081 of the Water Code, and the board shall also make independent findings that the dam is safe to impound water, as specified in Section 6355 of the Water Code.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Sections 6056, 6081, 6355, Water Code.

332. Actions for Which Board is Retained.

(a) The department shall retain a consulting board:

(1) To review the adequacy of the design of a dam and reservoir the department proposes to construct, or

(2) To review the safety of the completed construction and the terms and conditions to be included

in a certificate of approval for any dam owned by the department as issued, renewed or modified, no later than six months following any such action.

(b) Where a board is retained to review the adequacy of the design of a dam and reservoir, it shall report its findings to the Director prior to the approval of an application to construct or enlarge the dam.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Section 6056, Water Code.

333. Periodic Review.

In addition to the times specified in Section 332, the department shall retain a review board at least once every five years to review the operational performance of department owned dams. The Federal Power Commission's five year independent review may be substituted if it is comparable to the review required by this article.

NOTE: Authority cited: Section 6078, Water Code.
Reference: Section 6056, Water Code.

CURRENT PRACTICES
OF THE
DEPARTMENT OF WATER RESOURCES
IN
SUPERVISION OF DAMS AND RESERVOIRS

Introduction

The following is provided to help the reader comply with the requirements of the foregoing sections of the Water Code (WC) and the California Code of Regulations (CCR). Current practices of the Department of Water Resources in supervision of dams and reservoirs in State jurisdiction are given. Information required for applications is outlined. (CCR 310)

Division of Safety of Dams

Responsibility for supervision of dams and reservoirs is assigned to the department and delegated to the Division of Safety of Dams (DSOD).

Dams and Reservoirs in State Jurisdiction

Water Code Sections 6000 to 6004.5 and 6025.5 identify dams and reservoirs that are in State jurisdiction. Note that dams and reservoirs owned by the United States are not subject to State jurisdiction except as otherwise provided by federal law.

The Division will review the physical description on request of existing or proposed impoundments and determine if they are or will be in State jurisdiction. Plans for proposed impoundments are usually required before determinations can be made.

Proposed Dams and Reservoirs

The Division of Safety of Dams inspects sites, reviews preliminary plans, and comments on firm proposals for proposed dams and reservoirs. It attempts to inspect representative field exploration, unique laboratory testing, etc., for proposed facilities. However, any comments based on preliminary plans and data are not binding on the Division's later consideration of applications.

In matters relating to the California Environmental Quality Act (CEQA), the Department of Water Resources is the lead or responsible agency for dams and reservoirs. Environmental consideration for dams and reservoirs not directly related to safety is assigned to the Department's four districts. Usually, the Division of Safety of Dams makes preliminary reviews of dam and reservoir proposals, as discussed above, before environmental documentation is prepared. Other water related concerns are handled by the appropriate district.

Procedure for Construction or Enlargement of Dams and Reservoirs

1. If adequate water rights are not already held, file an application for water rights with the State Water Resources Control Board, Division of Water Rights, 901 P Street, Sacramento, California 95814. Evidence of water rights is required before a construction or enlargement application can be approved. (CCR 303)
2. Pre-application meetings are not required by the statutes or regulations. Practice, however, has shown that early involvement

of DSOD in projects is most beneficial for aggressive project schedules. CEQA scoping meetings, early site visits to view exploration, preliminary design discussions, project schedule reviews, and submittal of preliminary 60 percent plans, specifications, and geologic data are recommended to expedite review leading to final approval.

3. File application for construction or enlargement of dam. (CCR 310) Include:

- (a) Application forms (DWR 3) in duplicate to Department of Water Resources, Division of Safety of Dams, P.O. Box 942836, Sacramento, California 94236-0001, (2200 X Street, Suite 200), plus one copy to the Fish and Game Commission in-care of the State Department of Fish and Game, 12th Floor, Resources Building, 1416 Ninth Street, Sacramento, California 95814, if the dam is in a stream. (WC 6500) Sign all copies.
- (b) Plans prepared by registered civil engineer pursuant to California law. (CCR 304) Such plans shall be filed in duplicate in the form of paper prints. Unsigned, nearly complete, prints should be submitted.
- (c) Specifications in duplicate. Nearly complete specifications should be submitted.
- (d) Filing Fee. (WC 6300-6309 and CCR 314). The Current fee structure is listed on the Division Website under "Fees."
- (e) Certain additional information may be desirable, or may be required, depending upon the magnitude of the project. Such added information may include soils data, logs of borings or other exploratory data, geologic reports, hydrologic data, structural and hydraulic design notes, etc.
- (f) Information to enable the department to comply with the California Environmental Quality Act and regulations. This information is as appropriate:
 - (1) A copy of the final adopted environmental impact report or initial study--negative declaration prepared by a lead agency, or
 - (2) Data and information necessary for the department to act as lead agency to prepare the environmental documentation.

The environmental documentation in either case must be submitted to the State Clearing-house for processing as required by State law.

4. Within 30 days after receipt of an application, the Division informs the applicant that the application is complete or of the information necessary to make it complete.
5. After review of plans, specifications, etc., and inspection of the site, changes in the plans and specifications, and any supplemental data necessary for approval, will be identified.
6. Submit signed drawings in triplicate and final specifications in duplicate for application approval when review comments are resolved.
7. All civil engineering work is to bear the seal or stamp of the responsible civil engineer and shall be signed across the face with the expiration of the certificate shown on or adjacent to the seal. Civil engineering work includes plans, specifications, reports, and documents which are prepared under the Civil Engineering Practice Act.
8. Notify the Division when construction is to begin and keep DSOD field engineers informed as to the status of construction work at all times. Inspections are made during construction as deemed necessary. No foundations or abutments shall be covered until the DSOD field engineer has inspected and approved them.
9. Upon completion of construction, notify the Division by letter. Final inspections are made as soon as practicable after notice is received.
10. As soon as possible after completion of the dam and final inspection by the division's field engineer, file the following:
 - (a) Affidavit of cost of construction. Attach breakdown of costs, including engineering.
 - (b) Additional filing fee if final cost exceeds estimated cost by more than 15 percent.
 - (c) As-constructed plans, if required, in the form of paper prints.
11. A Certificate of Approval will be issued upon a finding that the dam and reservoir are safe to impound water within the limitations prescribed in the certificate. Impoundment of water must not commence until this certificate is issued.

Procedure for Repair or Alteration of Dams or Reservoirs

The procedure is the same as for construction or enlargement except for the following:

1. Evidence of water rights is not required.
2. Use application form DWR 4.
3. Plans and specifications may not be required for minor repair work.
4. Repair and maintenance qualify for an exemption under the California Environmental Quality Act.
5. Only two sets of signed plans are required for application approval.
6. The Certificate of Approval is only modified when the alteration or repair lowers the approved water surface elevation.

Procedure for Removal of Dams and Reservoirs

The procedure is the same as for construction or enlargement except for the following:

1. Evidence of water rights is not required.
2. Use application form DWR 5.
3. Only two sets of signed plans are required for application approval.
4. The Certificate of Approval, if any, is returned to the Department.